



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-92
Regulation title	Secondary Street Acceptance Requirements
Action title	Promulgation of Regulation in Accordance with Legislative Mandate
Final agency action date	February 19, 2009
Document preparation date	Revised February 26, 2009

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation sets forth the requirements applicable to all streets in the Commonwealth that are designated to become part of the secondary system of state highways, including procedures for approval and criteria used to consider the acceptance of new streets for maintenance as part of the secondary system. (Note: This regulation does not apply to the counties of Arlington or Henrico, which maintain their own roads, but the pavement and right of way widths may apply in the independent cities or towns with populations greater than 3,500, pursuant to §33.1-41.1, *Code of Virginia*.)

Pursuant to Chapter 382 of the 2007 Acts of Assembly (Senate Bill 1181), the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the *Code of Virginia*) do not apply to initial promulgation of the regulation. However, Chapter 382 required that the Board solicit and consider public comment in the development of this regulation. To this end, the Board published a NOIRA on June 11, 2007, and a proposed regulation on April 14, 2008. Following the publication of the proposed regulation, four public hearings were held throughout the state, and public comments were accepted through June 30, 2008. In addition more than 22 regional public meetings with stakeholders were held throughout 2008. These

public comments were used to further refine the regulation and address outstanding concerns.

Chapter 382 of the 2007 Acts of Assembly required that the Commonwealth Transportation Board include several provisions in the regulation. These mandatory provisions are as follows:

- requirements to ensure the connectivity of road and pedestrian networks with the existing and future transportation network;
- provisions to minimize stormwater runoff and impervious surface area, and
- provisions for performance bonding of new secondary streets and associated cost recovery fees.

The regulation was developed in consultation with a VDOT internal technical committee established by the Commissioner and an Implementation Advisory Committee established by the Secretary of Transportation. The Implementation Advisory Committee consisted of stakeholders from the development community, local governments, planning district commissions, environmental organizations and other stakeholders. Input and feedback from the Virginia Chapter of the American Planning Association, developers, planning district commissions and the general public were also considered.

Changes made to the regulation between the publication of the proposed version and submittal of the final version for publication include the following:

- List of defined terms has been revised with some removed (such as “link” and “node”), some added (such as “conceptual sketch” and “municipal separate storm sewer”) and some revised (such as “developer” and “intersection”);
- Subjects in the existing regulation have been relocated (such as requirements placed on local governing bodies or Metropolitan Planning Organizations concerning modifications or area type designations);
- Provisions concerning grandfathering, effective dates, and transitioning have been revised;
- Provisions contained in “public service requirements” in 24 VAC 30-92-60 have been revised to provide additional detail as it relates to individual streets, multifamily, townhouse and retail shopping complexes, rural standards, etc.; and
- Subjects in the existing regulation have been revised (such as pedestrian accommodations and connectivity index) or added (such as stormwater management, traffic control, and speed limits).

No federal statutes pertain to the regulation. Title 33.1 of the *Code of Virginia* contains many statutory references to the secondary system and the authority to issue regulations. VDOT, the Commissioner, and the Board are granted "control, supervision, management, and jurisdiction" over the secondary system of state highways by §33.1-69. Furthermore, the Board has general authority to make regulations concerning the use of the state highway system pursuant to §33.1-12. Section 33.1-229 gives the Commissioner discretionary authority over the expenditure of state funds for the secondary system.

The Office of the Attorney General has reviewed the proposed regulation and affirmed that the Commonwealth Transportation Board (Board) has the authority to promulgate it, and that the exemption has been properly cited.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On December 18, 2008, the Commonwealth Transportation Board took action regarding the regulation titled *Secondary Street Acceptance Requirements* (24 VAC 30-92). In preparing documentation to accompany the Final Regulatory Package for transmittal to the State Registrar of Regulations and the Department of Planning and Budget's Virginia Regulatory Town Hall, it was determined that the regulation was not attached to the December 2008 resolution and thus was not properly presented before the Commonwealth Transportation Board when it took action on the December 2008 resolution. As a result, the Commonwealth Transportation Board took up the resolution again at its February 19, 2009, meeting. The Board corrected the December 2008 resolution and adopted the *Secondary Street Acceptance Requirements* (24 VAC 30-92) to be effective as provided for by the regulatory filing requirements established by the *Code of Virginia* and the State Registrar of Regulations.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will have a positive impact on the institution of the family through the establishment of a more efficient transportation system improving the quality of life for families.